



COMMONWEALTH of VIRGINIA

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MEMORANDUM

TO: L. RICHARD MARTIN, JR.
Virginia Department of Social Services

FROM: NOËLLE L. SHAW-BELL
Assistant Attorney General

DATE: April 14, 2009

SUBJECT: Proposed repeal of 22 VAC 40-170
Voluntary Registration of Family Day Homes – Requirements for Contracting Organizations

I have reviewed the above-referenced proposed regulation repeal to determine whether the State Board of Social Services (“the Board”) has the statutory authority to repeal the specified regulation.

Pursuant to Va. Code § 63.2-217, the State Board is required to promulgate regulations as may be necessary or desirable to carry out the purposes of Va. Code § 63.1-100, *et seq.* Additionally, the Board is specifically charged with promulgating regulations to carry out the statutory mandate in § 63.2-319 to protect children and strengthen families.

Consequently, it is my opinion that the Board has the authority to repeal these regulations, subject to compliance with the provisions of Article 2 of the Administrative Process Act and Executive Order 36 (2006), and has not exceeded that authority.

If you have any questions, please feel free to call me at 786-3450.

cc. Kim F. Piner, Sr. Assistant Attorney General and Section Chief